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SEP - 6 1994

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

September 6, 1994

VIA HAND DELIVERY

Federal Communications Commission  
Office of the Secretary  
Room 222  
1919 M Street, N.W.  
Washington, D.C. 20054

Dear Sir:

Enclosed herein is an original and four (4) copies of Comments, submitted on behalf of E.F. Johnson Company, for consideration in the "Revision of Part 2 of the Commission's Rules relating to the marketing and authorization of radio frequency devices," ET Docket No. 94-45, RM-8125.

If any questions should arise related to this matter, kindly contact the undersigned counsel.

Sincerely,

  
Susan H.R. Jones

Enclosure

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**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

<b>In the Matter of</b>	)	
	)	
<b>Revision of Part 2 of the</b>	)	
<b>Commission's rules relating to the</b>	)	<b>ET Docket No. 94-45</b>
<b>marketing and authorization of</b>	)	<b>RM-8125</b>
<b>radio frequency devices</b>	)	

**To: The Commission**

**COMMENTS OF E. F. JOHNSON COMPANY**

E.F. Johnson Company ("E.F. Johnson" or the "Company"), by its attorneys, pursuant to Section 1.415 of the Rules and Regulations of the Federal Communications Commission ("FCC" or "Commission") hereby submits its Comments in response to the Notice of Proposed Rule Making ("NPRM") adopted in the above referenced proceeding<sup>1</sup> designed to amend the marketing regulations and equipment authorization procedures that apply to radio frequency ("RF") devices.

**I. INTRODUCTION**

E.F. Johnson is a leading designer and manufacturer of radio communications and specialty communications products for commercial and public safety use. Founded over seventy (70) years ago as an electronics components manufacturer, E.F. Johnson entered the radio communications market in the late 1940's and is one of the three largest providers of land mobile radio systems in the United States. It produces base stations,

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<sup>1</sup>Notice of Proposed Rule Making, ET Docket No. 94-45, FCC 94-110 (released June 9, 1994). The NPRM specified that comments in this proceeding must be submitted seventy five (75) days from the date the NPRM was published in the Federal Register. Publication of the NPRM occurred on June 21, 1994. Seventy Five (75) days from that date is September 4, 1994, a holiday. The Commission's rules state that when a filing date falls on a holiday, submission of the required document is appropriate on the next business day. 47 C.F.R. 14(j).

vehicular-mounted and portable transmitters that operate in various portions of the radio spectrum. The products manufactured by E.F. Johnson are predominantly employed by entities licensed under Part 90 of the Commission's rules. Accordingly, most of the equipment manufactured by the Company must be type accepted prior to marketing and sale.

This proceeding was initiated, in part, based upon a petition for rule making submitted by the Consumer Electronics Group of the Electronic Industries Association ("CEG/EIA"). That petition requested that the Commission amend the regulations governing the marketing of various RF devices. In response, the Commission proposed amendment of the regulations designed to harmonize and relax the existing marketing rules. The Commission also proposed several changes to the equipment authorization rules to facilitate the marketing and sale of electronically identical equipment.

As a major equipment manufacturer, the Company supports legitimate efforts to reduce unnecessary burdens on its sale and marketing of equipment. However, the equipment authorization and marketing rules also play an important role in protecting customers of RF products from equipment that has not yet demonstrated compliance with the Commission's equipment authorization procedures. Moreover, the use of products, even for marketing purposes, that are not yet subject to the equipment authorization process, represents the potential introduction of harmful interference to an already crowded spectrum environment. Accordingly, the Company is concerned about the modification of rules that would permit the premature introduction of equipment that has not yet been approved by the FCC to customers. The Company is pleased, therefore, to have this opportunity to submit the following Comments.

## **II. COMMENTS**

The FCC's proposals are designed to harmonize the marketing rules for all RF devices, regardless of the rule part under which they operate. However, it is not necessarily appropriate for marketing rules to be identical for all equipment. EIA/CEG

stated that it would not object if the Commission excluded devices subject to authorization under type acceptance from the scope of the proposed rule changes. E.F. Johnson agrees. Plainly, this proceeding is designed primarily to address broadly marketed devices such as industrial, scientific and medical ("ISM") equipment and computer peripherals. For that equipment, the proposed rules represent harmonization and consolidation of existing regulations and practices. However, the proposed rules would represent a significant departure from the current regulations governing Part 90 equipment. Part 90 equipment is not subject to the more liberal requirements of today's rule sections 2.806 and 2.809. Accordingly, as suggested by EIA/CEG, the Commission should exclude devices subject to type acceptance requirements from the scope of this proceeding.

Devices operated under Part 90 (and under other sections of the rules where type accepted equipment is employed) are used in an environment where frequencies are employed exclusively by a single entity in an area, or where frequencies are shared on a carefully coordinated basis. As the Commission is aware, communications of Part 90 licensees consist of important business information as well as information designed to ensure safety of people and the environment. It is critical, therefore, for the Commission to discourage the marketing of devices that do not meet the stringent requirements which ensure that these important communications do not experience harmful interference.

The proposed rules would permit the importation and use of non type accepted Part 90 devices, which could threaten current operations. Section 2.803 now specifies that non approved devices may not be activated or operated. However, proposed rule section 2.803(e) contains several instances where activation or operation would be permitted.

Nor should the rules governing Part 90 and similar devices be modified when the sale is made to business and commercial users. Virtually all sales of Part 90 equipment are to business and commercial users. The proposed rules are designed to permit

equipment sales of computer and ISM equipment to commercial and business users. The same rules, however, are not appropriate for services where frequency use is highly coordinated.

Accordingly, the Commission should restrict the proposed rule modifications to devices not subject to type acceptance. In particular, the provisions of proposed sections 2.803(d) and 2.803(e)(2) and (4) should not apply to devices subject to type acceptance requirements. In this fashion, the Commission will provide flexibility to manufacturers of consumer oriented devices that do not operate in a frequency coordinated environment, but will exact a higher standard of compliance for devices that are designed for use an environment where frequency use is carefully coordinated.

The Company generally supports, however, the Commission's proposals to modify the equipment authorization rules concerning changes to authorized devices, electrically identical products and retention of records. These proposed changes address devices that have generally been subject to equipment authorization procedures. They represent an elimination of a burden to manufacturers without a threat to users of the crowded spectrum.


### **III. CONCLUSIONS**

E.F. Johnson supports the Commission's efforts to eliminate unnecessary regulatory burdens on manufacturers. However, in the instant proceeding, the Commission proposes measures that are too broad, given the range of RF devices it would affect. Because of the delicate spectrum environment of Part 90, and other rule sections which require the use of type-accepted devices, the Commission is requested to exclude these devices from the rule modifications proposed. E.F. Johnson supports, however, the changes in the equipment authorization rules proposed by the Commission, which will eliminate unnecessary regulatory burdens without jeopardizing existing spectrum users.

**WHEREFORE, THE PREMISES CONSIDERED,** E.F. Johnson Company  
submits the foregoing Comments and requests that the Federal Communications  
Commission act in manner consistent with the views expressed herein.

Respectfully submitted,

**E.F. JOHNSON COMPANY**

By: 

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Its Attorneys

Dated: September 6, 1994